

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM FEBRUARY 27, 2013
OPEN SESSION

MINUTES OF FEBRUARY 27, 2013 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN ERIC SKRMETTA, VICE CHAIR CLYDE HOLLOWAY AND COMMISSIONERS FOSTER CAMPBELL, LAMBERT BOISSIERE, AND SCOTT ANGELLE. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of February 27, 2013, convening at 9:20 A.M. and adjourning at 12:04 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Chairman Skrmetta acknowledged the loss of Commissioner Campbell's son, Zach Campbell and Gordon Polozola's father. Commissioner Angelle asked that everyone stand and observe a moment of silence for Zach Campbell's contributions to Louisiana.

Chairman Skrmetta announced that his Staff member, Andre Laborde, was called back to Navy reserve for 8 month tour.

Chairman Skrmetta extended an invitation to a presentation of an internet based outage reporting system by GCR Systems to be held March 6, 2013 at the University of New Orleans at 1pm. He asked that a representative from each utility attend.

Chairman Skrmetta presented the following directives:

Utilities Best Practices Docket and RFP:

Staff is directed to open a Docket to investigate the storm recovery procedures of all utilities including current restoration monitoring, reporting methodologies, and any other relevant topic to establish and implement "best practices" protocols for future storm preparation and recovery. I further direct Staff to issue a Request for Proposals seeking outside counsel and consultants to assist the Commission in the investigation of said storm recovery procedures and the development and implementation of future "best practices" protocols.

Prison Telephone Directive for RFP:

Staff is directed to issue Request for Proposals seeking both outside counsel and consultant to assist the Commission in this docket to identify states whose revenue systems fund their prison systems in a like fashion to Louisiana (or identify the lack thereof) and further, to investigate and report back to the commission, at the earliest date, on Prison Telephone systems, their tariffs, rate structures and methodology of correctional systems within the region of the Southeastern Association of Regulatory Utility Commissioners (SEARUC) to assist the commission for the development of future tariff modeling.

Recovery of Nuclear Repository Funds:

Staff is directed to open a specific docket to review this matter in its entirety and to determine the exact amounts paid by the ratepayers of Louisiana for this repository and to further investigate the options of either joining the South Carolina and Washington litigation or to develop its own strategic legal plan for recovering any monies possible for the benefit of the ratepayers. Staff is further directed to issue Request for Proposals as needed seeking both outside counsel and consultant to assist the Commission in this docket.

Ex. 2 **T-32356** - Louisiana Public Service Commission vs. Kevin Richard dba Richards Moving (Baton Rouge, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164E(1) having occurred on or about February 5, 2012.

In re: Discussion and possible vote on Stipulated Agreement.

On motion of Commissioner Boissiere, seconded by Commissioner Holloway, and unanimously adopted, the Commission approved the Staff Recommendation and accepted the agreement between Staff and the Carrier reached at the hearing on October 4, 2012 and detailed as follows: 1) The Carrier shall plead guilty to violating La. R.S. 45:164 (E)(1) by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of the statute, having occurred on or about February 5, 2012; 2) The Carrier

shall pay a \$1,000.00 fine with \$500.00 suspended; contingent upon the filing of an application with the Public Service Commission to complete intrastate moves of household goods. The Carrier has agreed to pay according to the following schedule: \$150.00 due by November 1, 2012 and \$125.00 due on each of the following dates: December 1, 2012, January 1, 2013, and February 1, 2013 and; 3) A six (6) month deadline from the date of the Commission Order shall be established for the Carrier to file an application with the Public Service Commission for authority to move household goods intrastate. If no application is timely filed, the \$500.00 suspended fine shall be imposed.

Staff was granted the authority of the Commission to work in conjunction with the Attorney General's office to enforce the agreement and Order in this Docket.

APPROVED

- Ex. 3 T-32431** - Louisiana Public Service Commission vs. David White dba D. White & Sons Moving (New Orleans, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45, 161 through 180.1, as amended, by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164E(1).

In re: Discussion and possible vote on Stipulated Agreement.

On motion of Commissioner Boissiere, seconded by Commissioner Holloway, and unanimously adopted, the Commission approved the Staff Recommendation and accepted the agreement between Staff and the Carrier reached at the hearing on December 6, 2012 and detailed as follows: 1) Plead guilty to violating Title 45:161 through 180.1 as amended by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164 (E)(1); 2) Pay a fine of \$1,000 as well as the citation fee of \$25, with \$250 suspended to be paid in four equal installments on January 7, 2013, February 7, 2013, March 7, 2013 and April 7, 2013; 3) Apply for Louisiana Public Service Commission Household Goods authority by April 30, 2013. The suspended portion of the fine is contingent upon the Carrier not performing any moves of household goods prior to being granted the authority; 4) If the Carrier chooses not to apply for authority from the Commission, the Carrier shall not operate and remove its advertisement from the Yellow Pages and; 5) Including the citation fee and the \$750 unsuspended portion of the fine, the Carrier shall make equal payments consistent with the above schedule.

Commission Staff was authorized to work in conjunction with the Louisiana Attorney General to enforce the provisions of this agreement and Order.

APPROVED

- Ex. 4 T-32461** - Louisiana Public Service Commission vs. Discount Moving & Hauling, LLC (Metairie, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45, 161 through 180.1, as amended, by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164E(1).

In re: Discussion and possible vote on Stipulated Agreement.

On motion of Chairman Skrmetta, seconded by Commissioner Angelle, with Commissioners Holloway and Campbell Concurring and Commissioner Boissiere temporarily absent, the Commission approved the Staff Recommendation and accepted the agreement between Staff and the Carrier reached at the hearing on December 6, 2012 and detailed as follows: 1) The Carrier shall plead guilty to violating Title 45:161 through 180.1 as amended by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164 (E)(1); 2) The Carrier shall pay a \$1,000 fine, as well as the \$25 citation fee, with \$500 of the fine to be suspended contingent on the Carrier's payment of the remaining fine, plus the citation fee of \$25, for a total of \$525, within fifteen (15) days of the date of the hearing; 3) In addition the Carrier has agreed not to perform any moves of household goods prior to the granting of Commission authority, of which the Carrier applied and paid the application fees on the day of the hearing and; 4) The suspended portion of the fine, in the amount of \$500, is contingent upon the Carrier not committing any further violation for twelve (12) months from the date of the hearing.

APPROVED

- Ex. 5** **S-32651** - Dixie Electric Membership Corporation, ex parte. In re: Request for a Letter of Non-Opposition to Establish a 12-Month Revolving Line of Credit with National Rural Utilities Cooperative Finance Corporation for Dixie Electric Membership Corporation ("DEMCO").

In re: Discussion and possible vote to approve revolving line of credit.

On motion of Chairman Skrmetta, seconded by Commissioner Angelle, and unanimously adopted, the Commission voted to adopt the Staff Recommendation approving the line of credit subject to the conditions read into the record.

APPROVED

- Ex. 6** **R-26018** - Louisiana Public Service Commission, ex parte. In re: Determination as to whether the Commission should issue a General Order asserting jurisdiction over the certification of utility transmission projects and the determination of whether these projects are in the public interest.

In re: Discussion and possible vote on hiring technical consultant and Staff Report.

ITEM PULLED

- Ex. 7** **R-31106** - LPSC, ex parte. In re: Rulemaking to study the possible development of financial incentives for the promotion of energy efficiency by jurisdictional electric and gas utilities.

In re: Discussion and possible vote to approve J. Kennedy & Associates, Inc. budget to assist Staff with Quick Start Phase.

ITEM PULLED

- Ex. 8** **U-32155** - Cleco Power, LLC, ex parte. In re: Informational Filing Containing Draft Request for Proposals for Biomass Fuel Resources.

In re: Discussion of Staff's Evaluation of Cleco Power LLC's Biomass Co-Firing pursuant to Rule 57.

ITEM PULLED BACK ON MAY AGENDA

- Ex. 9** **S-32362** - Atmos Energy Corporation, ex parte. In re: Petition for exception to LPSC Order No. U-20181 and approval of the use of a regulatory asset to bridge the gap between accounting for postretirement benefits other than pensions on a pay-as-you-go basis as compared to an accrual basis pursuant to FAS 106 and amortization of same over a 20-year period.

In re: Discussion of Staff's Recommendation.

On motion by Chairman Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to grant Atmos Energy an exception LPSC Order No. U-20181 and approve the use of regulatory assets to account for the difference between the accounting treatment for post retirement benefits other than pensions on a pay as you go basis and the accounting treatment for such cause on an accrual basis required by the Accounting Standards Modification No.715 formerly FAS106 and to amortize the assets over a 20 year period with such amounts included in each annual RSC proceeding.

- Ex. 10** **U-29764** - Louisiana Public Service Commission, ex parte.. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

In re: Discussion and possible vote concerning issues that may be pursued during the stay imposed by the Commission at the January 30, 2013 Business and Executive Session.

On motion by Chairman Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted that the stay of Docket No. U-29764 that was imposed at the January 30, 2013 Business and Executive Session be redefined as follows:

1. All filing(s) of formal testimony and all hearing-type proceedings are stayed through December 31, 2013 after which time the parties can reconsider whether a hearing process is appropriate and present their recommendations to the Commission on this issue. All rights regarding jurisdiction over these matters, and all positions that may be taken should any litigation follow the conclusion of the investigatory phase of Docket No. U-29764, will be

reserved.

2. There will be no further activity regarding the MSS-4 PPA's between ETI and EGSL through December 31, 2013, except that the Companies will provide the Staff whatever studies are provided to the PUCT and/or its Staff on this issue. Any such exchange of information shall take place in LPSC Docket No. U-29764.
3. Staff investigation and discovery shall continue on the following issues:
 - a. Whether ELL and EGSL should withdraw from the System Agreement;
 - b. The cost and other impacts of ETI exiting the System Agreement and the implications of early withdrawal of ETI;
 - c. The possibility of any "stranded" costs resulting from EAI's and EMI's withdrawal, and, if so, what EGSL and ELL should do about such stranded costs;
 - d. How is resource planning conducted in light of EAI and EMI withdrawing from the System Agreement; and
 - e. Affiliate cost allocations in light of EAI and EMI withdrawal.
4. The investigation in this docket are limited to the issued described in paragraph 3 above, and all issues related to the MISO and ITC transactions are specifically excluded from consideration herein, and shall only be considered in their respective LPSC and FERC dockets. The consultants and attorneys engaged by the Commission in this docket are directed to submit proposed annual budgets with hard caps within 30 days and thereafter annually for the duration of the docket.

Commissioner Angelle requested that at all future Business and Executive Sessions, the text of pre-prepared motions be made available to the Commissioners and to the public prior to the commencement of the Business and Executive Session in which the motion is considered.

Ex. 11 Density Utilities of LA, LLC

In re: Staff Report

Staff gave a report to the Commission on the status of ongoing Commission, DEQ and DHH proceedings involving Density. Neil Hertenstein and Francisca Comeaux answered questions on behalf of the Company and Robert J. Lambert, Jr., RJLPC, Staff's consulting engineer, answered questions from Commissioners regarding his observational assessment.

Chairman Skrmetta directed Staff to continue to work with the engineer to come up with a plan for Density under the current budget to deal with critical issues.

Commissioner Angelle asked Staff to, in the future, look into the possibility of determining the rate base/value of systems at the time of transfer prior to issuing non-opposition.

- Ex. 12**
- 1) Reports
 - 2) Resolutions
 - 3) Discussions
 - 4) ERSC/OMS business

- Ex. 13** Commissioner Skrmetta directed the Staff to investigate and provide a report to the Commission, including options for litigation and non-litigation solutions, regarding the enforcement of the "Recommended Standards for Water Works (10 State Standards)" by the DHH and the potential rate impact of said enforcement on LPSC-jurisdictional water utilities.

At the request of Commissioner Skrmetta.

Commissioner Angelle directed the Staff to meet with representatives of DEQ and DHH to discuss the establishment of criteria that will be administered during the permitting process employed by those agencies for water and wastewater systems that are, or may become, subject to the Commission's jurisdiction. The criteria shall be established with a goal of ensuring LPSC input regarding appropriate sustainable rates during the permitting process.

Ex. 14 **U-32220** - Southwestern Electric Power Company, ex parte. In re: Application for extension of Formula Rate Plan.

In re: Discussion and possible vote on Proposed Uncontested Stipulated Settlement.

At the request of Commissioner Holloway.

On motion of Chairman Skrmetta, seconded by Commissioner Angelle, with Commissioners Holloway and Boissiere concurring and Commissioner Campbell opposed, the Commission voted to approve and adopt the February 11, 2013 Proposed Uncontested Stipulated Settlement entered into between the Commission Staff and Southwestern Electric Power Company, as modified by the February 19, 2013 Addendum to Proposed Uncontested Stipulated Settlement.

APPROVED

Ex. 15 **U-32698** - South Louisiana Electric Cooperative Association (SLECA), ex parte. In re: 2013 FRP Annual Report for Test Year 2012 Pursuant to Order U-31835.

In re: Discussion and possible vote to retain outside consultant.

At the request Commissioner Angelle.

On motion of Commissioner Angelle, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain Henderson Ridge Consulting, Inc. to assist the Commission Staff in this matter for a budget not to exceed \$18,125 in fees and \$1,800 in expenses, for a total budget of \$19,925.

Ex. 16 **U-32343** - Entergy Gulf States Louisiana, LLC., ex parte. In re: Formula Rate Plan filing for Test Year 2011.

In re: Discussion and possible vote on adoption of Staff's FRP report.

At the request of Commissioner Skrmetta.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adopt the FRP report.

APPROVED

Ex. 17 **R-31891** - Louisiana Public Service Commission, ex parte. In re: Review and Update of the Regulations and Guidelines of the Louisiana Public Service Commission Applicable to Customer Owned Coin Operated Telephone Service Providers and Alternate Operator Service Providers.

In re: Request for rehearing.

At the request of Commissioner Skrmetta.

PASSED

Ex. 18 **R-31106** - LPSC, ex parte. In re: Rulemaking to study the possible development of financial incentives for the promotion of energy efficiency by jurisdictional electric and gas utilities.

In re: Request for rehearing.

At the request of Commissioner Skrmetta.

On motion of Commissioner Holloway, seconded by Commissioner Angelle, with Commissioner Campbell and Commissioner Boissiere opposing, the Commission voted to rehear this matter.

After discussion, Commissioner Holloway moved to overturn and vacate Commission Order No. R-31106; the motion was seconded by Commissioner Angelle. With Commissioner Campbell and Commissioner Boissiere opposing, the motion passed and Order No. R-31106 was vacated.

Ex. 19 **U-29764** - Louisiana Public Service Commission, ex parte.. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

In re: Possible Executive Session pursuant to La R.S. 42:17 to discuss litigation.

At the request of Commissioner Skrmetta.

Item was Pulled, given the vote on Exhibit 10.

MEETING ADJOURNED

The next Business and Executive Session will be held March 20, 2013 at 9:00 a.m. in Baton Rouge, Louisiana.